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HEWLETT-PACKARD COMPANY
Intellectual Property Administration
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EXAMINER

NOVOSAD, JENNIFER ELEANORE

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3634

DATE MAILED: 10/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,005

Applicant(s)

HANEY, GEROME A.

Examiner

Jennifer E. Novosad

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-22,24-36,38 and 41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-15,17-22,24-29,31-36,38 and 41 is/are rejected.
- 7) ☒ Claim(s) 16 and 30 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

The request filed on October 13, 2004 for a Continued Examination (RCE) under 37 CFR 1.53(d) based on parent Application No. 10/629,005 is acceptable and an RCE has been established. An action on the RCE follows.

This Office action is in response to the amendment filed with the RCE on October 13, 2004, by which claims 10, 15, 24, 29, and 38 were amended.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 15, 29, and 38 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 15 and 29 are rendered indefinite since the language of the claims appears to be contradictory to the language of claims 10 and 24, respectively, in that claims 10 and 24 recite that the length is "maintained" and then claims 15 and 29 recite that the length is "adjustable". It is unclear whether the claims are referring to the same length, or portion thereof, and thus it is unclear how the length can be both. *With respect to claim 38*, note line 5 which recites "adjusting a length" and line 17 which recites "maintaining the length".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10-15, 17-21, 24-29, 31-35, 38, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,833,337 (Kofstad '337).

Kofstad '337 discloses an assembly comprising a rack mount (see Figure 3) having a first end (at left side of Figure 3) and a second end (at right side of Figure 3) whereby the rack mount is adjustable (see Figure 4) therebetween; the rack mount having a length between the first and second ends, i.e., the length does not include the element 56; a first mounting flange (70) orthogonally adjacent the first end and having protrusions (74 and 76); a second mounting flange (58) orthogonally adjacent to the second end and having protrusions (62 and 64) whereby the protrusions (74 and 72) extend towards each other and towards the opposite mounting flange, i.e., protrusion 74 extends towards flange 58, and protrusions (76 and 64) extend away from each other and from the respective mounting flange, i.e., protrusion 64 extends away from flange 70; each of the protrusions (76 and 64) engage mounting apertures (see Figure 7); the protrusions (76 and 64) are adapted to be engaged in mounting apertures (106) in a rack (40); and a rack rail (50 - see column 3, line 13) defining an outer channel (54) supported along the adjustable length and an inner channel (48) slidably supported by the outer channel which can thereby support equipment (42); the mounting flanges (70) contact the column flanges (28) when the rack mount is in a first position, i.e., the front surface of the flange 70 is placed *on* the front surface of

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element 28 so that a side of the mounting flanges (70) contacts a side of the column flanges (28) and a side perimeter edge of the protrusion (76) touches the side edge of the column flanges; the protrusions (76) contact and slide the column flanges (28) when the rack mount is in a third position, i.e., the perimeter surface of 76 will contact the side edge of 28 when placed thereon thereby allowing the protrusions to slide in a direction (right to left) perpendicular to the longitudinal axis (up and down) of the column flanges before being placed in the apertures, and *with respect to claim 24*, this is defined when the rack mount is moved from the first to the second position; and the protrusions (76) engage the flange apertures when the rack mount is in a second position, i.e., see Figure 7, so that the protrusions support the rack mount therebetween and the protrusions being aligned therewith the apertures of the column flanges; the second position is between the first position and the third position; *with respect to claims 10 and 24*, the length of the rack mount is maintained when the rack mount is in the first, second and third positions, i.e., since the end at 56 is not considered to be part of the length, when 56 is adjusted to enable the rack mount to be attached to the column flanges, the length of the rack mount (remaining elements in Figure 3) is maintained.

Kofstad '337 is also considered to disclose the structure capable of performing the method steps of claims 38-41 which includes positioning the rack mount assembly to span the column flanges (28) whereby the flanges (28) contact the flanges (70) of the assembly; then sliding the rack mount assembly relative to and on surface of the column flanges (28) so that protrusions (76) on the flanges (70) contact the flanges (28) and then engaging the apertures of the column flanges (28) with the protrusions (76); and adjusting a length of the assembly between the mounting flanges (see Figure 4); and wherein sliding the rack mount includes

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maintaining the length of the rack mount, i.e., since the end at 56 is not considered to be part of the length, when 56 is adjusted to enable the rack mount to be attached to the column flanges, the length of the rack mount (remaining elements in Figure 3) is maintained.

With respect to the recitation "maintained" in claims 10, 24, and 38, it is noted that the claims do not require that the length of the mount be maintained at a constant length when being moved amongst or to any of the positions and thus the length of the mount in Kofstad is considered to be "maintained".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kofstad '337 as applied to claims 10-15, 17-21, 24-29, 31-35, 38, and 41 above, and further in view of U.S. Patent No. 2,927,652 (Harrington *et al.* '652).

Kofstad '337 discloses the assembly as advanced above.

The claim differs from Kofstad '337 in requiring the protrusions to include truncated cones.

Harrington *et al.* '652 teach that it is old in the art to have protrusions that define truncated cones (108 - see Figure 5) that are inserted into apertures.

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the assembly of Kofstad '337 with protrusions defining truncated cones, for ease in economy and manufacture while allowing for increased securement of the adapter on the rack and ease in assembly therein.

Terminal Disclaimer

The terminal disclaimer filed on September 10, 2004 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,681,942 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

Claims 16 and 30 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Novosad whose telephone number is (703)-305-2872. The examiner can normally be reached on Monday-Thursday, 5:30am-4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl D. Friedman can be reached on (703)-308-0839. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jennifer E. Novosad
Examiner
Art Unit 3634

Jennifer E. Novosad/jen
October 26, 2004